

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

HB 1444 - SB 1349

March 12, 2023

SUMMARY OF BILL AS AMENDED (005221): Requires a person committing the offense of driving under the influence (DUI) as a fifth, sixth, or subsequent offense to serve 100 percent of the sentence imposed by the court undiminished by any sentence reduction credits.

FISCAL IMPACT OF BILL AS AMENDED:

The fiscal memorandum issued on March 10, 2023 used 10-year averages of incarceration data. These averages were determined to be in error. The fiscal memorandum has been corrected as follows:

(CORRECTED)

Increase State Expenditures – \$721,100 Incarceration

Assumptions:

- Pursuant to Tenn. Code Ann. § 55-10-402(a)(5)(A), a conviction for a fifth offense of driving under the influence is a Class D felony.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 10 admissions per year over the last three years for the Class D felony offense under Tenn. Code Ann. § 55-10-401(a)(5)(A) for a fifth DUI.
- The average sentence for the Class D felony of fifth DUI is 3.05 years.
- The average time served for a Class D felony of fifth DUI is 0.58 years.
- Accounting for recidivism rates, the proposed legislation will result in 5.72 admissions annually serving an additional 2.47 years (3.05 – 0.58).
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 76,900	FY23-24
\$ 183,800	FY24-25
\$ 265,200	FY25-26

- Pursuant to Tenn. Code Ann. § 55-10-402(a)(6)(A), a conviction for a sixth or subsequent offense of driving under the influence is a Class C felony.
- Based upon information provided by the DOC, there has been an average of 18.6 admissions per year over the last five years for the Class C felony offense under Tenn. Code Ann. § 55-10-401(a)(6)(A) for a sixth or subsequent DUI.
- The average sentence for the Class C felony of sixth or subsequent DUI is 5.30 years.
- Pursuant to Tenn. Code Ann. § 40-35-501(v), as amended by Public Chapter 486 of 2019, a person convicted of a sixth or subsequent offense for DUI on or after January 1, 2019 is required to serve 100 percent of the sentence imposed, provided that earned credits may reduce the sentence imposed by up to 15 percent.
- Therefore, it is assumed that a person convicted of a sixth or subsequent DUI under current law would serve 4.51 years ($5.30 \times 85\%$).
- The average time served for the Class C felony of sixth or subsequent DUI is 1.22 years.
- Accounting for recidivism rates, the proposed legislation will result in 10.63 admissions annually serving an additional 3.29 years ($4.51 - 1.22$).
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 56,100	FY23-24
\$ 254,800	FY24-25
\$ 455,900	FY25-26

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$721,100 ($\$265,200 + \$455,900$).
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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